



## Department for Levelling Up, Housing & Communities

**Baroness Penn**

*Minister for Housing and Communities*  
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London  
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Baroness Taylor of Stevenage OBE  
Baroness Pinnock  
House of Lords  
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27 February 2024

Dear Baroness Taylor and Baroness Pinnock,

During the statement repeat on the government's Long-term Plan for Housing I undertook to write to you regarding any questions I was unable to address at the time.

You asked me to explain what the updated line in the NPPF that 'availability of agricultural land use for food production should be considered' means in practice. We place great importance upon our agriculture and food production, as reflected in the NPPF. The Framework requires local planning authorities to take into account all the benefits of the best and most versatile agricultural land. If it is proposed to use any land that falls under Natural England's 'best and most versatile agricultural land' classification, this will need to be justified during the consideration of a planning application. The recent update to the NPPF seeks to add detail on the consideration that should be given to the availability of agricultural land for food production, where significant development of higher quality agricultural land is demonstrated to be necessary, compared to areas of poorer quality land.

On healthy homes, the NPPF is already clear that planning policies and decisions should aim to achieve healthy, inclusive, and safe places which enable and support healthy lifestyles, for example, through the provision of safe and accessible green infrastructure. We have also already legislated to ensure that all new homes delivered through permitted development rights must provide adequate natural light in all habitable rooms and meet the Nationally Described Space Standards. This is all to ensure the local health and well-being of communities are being addressed.

With regards to making specific provision for housing for older people, the NPPF already expects LPAs to plan for housing need for different communities, including older people. For total quantum of age exclusive housing, current policy asks authorities to assess the needs of older persons with regard to housing and allows local authorities to allocate sites specifically for this use. The December 2023 NPPF update includes a specific expectation that when planning for older people's housing, particular regard needs to be given to retirement housing, housing-with-care, and care homes – important types of housing that can help support our ageing population. In continuing our commitment to ensuring that older people have access to the right homes in the right places to meet their needs, the Government has appointed an Older People's Housing Taskforce to investigate how best to improve housing options for people in later life. The independent Taskforce began work in May 2023 and will continue for 12 months.

On flooding, the NPPF was amended in July 2021 to ensure that all sources of flood risk need to be considered (including areas that are at risk of surface water flooding due to drainage problems), taking into account future flood risk, to ensure that any new development is safe for its lifetime without the risk of flooding elsewhere.

On access to open space, the NPPF sets out that planning policies should be based on robust and up-to-date assessments of the need for open space, sport, recreation facilities and opportunities for new provision, which local plans should seek to accommodate. There are also protections for open space in the existing Framework, which is clear that open space should not be built on unless there is clear evidence it is no longer required, or equivalent or better provision can be accommodated.

Although the December 2023 NPPF update did not specifically cover heritage, the Government is unwavering on its protections of the historic environment and has put strong legislative and policy framework to protect heritage assets. The NPPF makes clear that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. That is why listed buildings are subject to additional statutory protection through the listed building consent regime and it is a criminal offence to undertake works which would affect its character as a building with special historic or architectural interest, without first obtaining listed building consent.

We are always looking for ways to level up the country and get the right homes built in the right places. Work is therefore underway on developing National Development Management Policies as provided for in the Levelling Up and Regeneration Act 2023. They are envisioned to be a suite of policies that will inform and cover those development management considerations across England and that are of national relevance, such as safeguarding areas at risk of flooding. The finalised suite of National Development Management Policies has yet to be decided but we intend to consult fully on both the scope and content of the policies before any are put in place.

Turning to the question of what pressures the Government will place on developers to ensure once planning consent is given, the developer builds out the site. We have been examining ways to incentivise the prompt build-out of permitted housing sites and to support councils to act against those who fail to meet these commitments.

Through the Levelling Up and Regeneration Act, housing developers will be formally required to notify local authorities through a Development Commencement Notice when commencing development. They will be required to report annually to local authorities on their actual delivery of housing, enabling them to identify where sites are coming forward too slowly and helping to inform whether to sanction a developer for failure to build out their schemes promptly. The Act also introduces a new power that will allow local planning authorities to decline to determine planning applications made by developers who fail to build out at a reasonable rate where there have been earlier permissions granted on any land in the authority's area.

We know that we can go further. Therefore, to strengthen this package, we committed in our response to the December 2022 reforms to national planning policy consultation that taking forward several measures, subject to further consultation. These include:

- Publishing data on developers of sites over a certain size in cases where they fail to build out according to their commitments;
- Requiring developers to explain how they propose to increase the diversity of housing tenures to maximise a development scheme's absorption rate (which is at the rate at which homes are sold or occupied); and
- In future updates to the National Planning Policy Framework (NPPF), highlighting that delivery can be a material consideration in planning applications.

With these, we aim to increase transparency about build out with these actions, allowing local authorities and communities to better understand what they can expect from development proposals, and put in place sanctions where this does not happen. This is to ensure the right pressures are placed so that homes are built quickly and to an excellent standard. The Secretary of State's Written Ministerial Statement published on 19 December set out plans to launch a consultation on measures to tackle slow build out rates following the publication of the Competition and Markets Authority's final report on their market study later this year.

You asked me to explain the rationale behind the requirement for 20 of the most populated urban cities and centres in England to have 35% more homes than are determined by their assessment of local housing need. We consulted on proposed changes to the planning system in 2020, and having carefully considered the responses received, we decided the most appropriate approach was to retain the existing standard method in its current form. However, in order to support wider ambitions of delivering more homes on brownfield land, we introduced a 35% uplift in housing need to the most populous areas in England. Having considered various alternatives, the 35% figure was chosen as this best aligned with the government's Manifesto commitment to see 300,000 homes per year delivered by the mid-2020s.

You also asked the Government to clarify what it is doing to address the genuine complaints from residents about local infrastructure. We acknowledge that the provision of the right infrastructure at the right time is important to new and existing communities. While local planning authorities currently use developer contributions to capture a proportion of the increases in land value that occur as a result of planning permission being granted, the current system can be renegotiated which often means less affordable housing for communities and uncertainty about when key infrastructure is going to be provided.

That is why we have introduced powers, through the Levelling Up and Regeneration Act, to create a new Infrastructure Levy. This will reform the existing system of developer contributions. The Infrastructure Levy will be mandatory and non-negotiable, allowing infrastructure like schools, GP surgeries and new roads to be produced in a more effective, transparent, and efficient manner.

I hope that these answer your questions and shed further light on the Government's mission to level up the country and ensure the right homes and infrastructure are built in the right places.

I am depositing a copy of this letter in the House Libraries.

Yours ever,

A handwritten signature in black ink, appearing to be 'Baroness Penn', with a long horizontal flourish extending to the right.

**BARONESS PENN**  
Minister for Housing and Communities